

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



# **MITIGATION MONITORING AND REPORTING PROGRAM**

## **PACIFIC GAS & ELECTRIC COMPANY'S APPLICATION NO. 96-11-020 PROPOSAL FOR DIVESTITURE**

### **INTRODUCTION**

The purpose of this program is to describe the mitigation monitoring process for the project and to describe the role and responsibilities of the California Public Utilities Commission (CPUC) in ensuring the effective implementation of the mitigation measures adopted by the CPUC.

### **California Public Utilities Commission (CPUC)**

The Public Utilities Code confers authority upon the CPUC to regulate the terms of service and safety, practices and equipment of utilities subject to its jurisdiction. It is the standard practice of the CPUC to require that mitigation measures stipulated as conditions of approval be implemented properly, monitored, and reported on. Section 21081.6 of the Public Resources Code requires a public agency to adopt a reporting and monitoring program when it adopts a mitigated negative declaration. The CPUC's adoption of the Mitigated Negative Declaration would not in itself, adopt the mitigation measures. Only if the CPUC ultimately approves the project, and in so doing adopts the mitigation measures, would this Mitigation Monitoring and Reporting Program be implemented.

The purpose of a reporting and monitoring program is to ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. The CPUC views the reporting and monitoring program as a working guide to facilitate not only the implementation of mitigation measures by the project proponents, but also the monitoring, compliance and reporting activities of the CPUC and any monitors it may designate.

### **Project Description**

As part of its effort to "restructure" the state's electric utility industry, the CPUC identified the exercise of generation market power as a potential barrier to bringing competition into the state's electric utility industry. In response to the CPUC's request, Pacific Gas & Electric Company

(PG&E) voluntarily applied to sell or “divest” three power plants -- the Morro Bay, Moss Landing and Oakland Power Plants -- as a means of reducing its market power in the electric generation marketplace in California (A.96-11-020).

In accordance with the California Environmental Quality Act (CEQA), the CPUC conducted an Initial Study of potential environmental impacts related to PG&E's divestiture application. The CPUC used the Initial Study as a “decision point” document to determine that issuing a Mitigated Negative Declaration is the appropriate action under CEQA. Through this document, the CPUC determined that the actions taken as a result of approving PG&E's divestiture application would have potentially significant impacts in the areas of:

- Air Quality
- Biological Resources
- Cultural Resources

In the limited instances where the environment could be potentially and significantly affected by divestiture, appropriate mitigation measures were recommended for adoption. Each of the identified impacts can be mitigated to avoid the impact or reduce it to a less than significant level.

### **Roles and Responsibilities**

As the lead agency under the California Environmental Quality Act (CEQA), the CPUC is required to monitor this project to ensure that the adopted mitigation measures are implemented effectively. The CPUC will be responsible for ensuring full compliance with the provisions of this monitoring program and has primary responsibility for implementation of the monitoring program. The purpose of this monitoring program is to document that the mitigation measures adopted by the CPUC are effectively implemented.

The CPUC has the authority to halt any activity associated with the divestiture of the three PG&E plants if the activity is determined to be a deviation from the approved project or adopted mitigation measures. For details, refer to the Mitigation Monitoring and Reporting Program discussed below.

### **Mitigation Monitoring Table**

The table attached to this program presents a compilation of the Mitigation Measures in the Mitigated Negative Declaration. The purpose of the table is to provide a single comprehensive list of mitigation measures, effectiveness criteria, and timing.

## **Dispute Resolution Process**

The Mitigation Monitoring and Reporting Program is expected to reduce or eliminate many potential disputes. However, in the event that a dispute occurs, the following procedure will be observed:

Step 1: Disputes and complaints (including those of the public) shall be directed first to the CPUC's designated Project Manager for resolution. The Project Manager will attempt to resolve the dispute.

Step 2: Should this informal process fail, the CPUC Project Manager may initiate enforcement or compliance action to address the deviation from the proposed project or adopted Mitigation Monitoring and Reporting Program.

Step 3: If a dispute or complaint regarding the implementation or evaluation of the Mitigation Monitoring and Reporting Program or the Mitigation Measures cannot be resolved informally or through enforcement or compliance action by the CPUC, any affected participant in the dispute or complaint may file a written "notice of dispute" with the CPUC's Executive Director. This notice shall be filed in order to resolve the dispute in a timely manner, with copies concurrently served on other affected participants. Within 10 days of receipt, the Executive Director or designee(s) shall meet or confer with the filer and other affected participants for purposes of resolving the dispute. The Executive Director shall issue an Executive Resolution describing his decision, and serve it on the filer and the other participants.

Parties may also seek review by the CPUC through existing procedures specified in the CPUC's Rules of Practice and Procedure, although a good faith effort should first be made to use the foregoing procedure.

## Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>AIR QUALITY</b>				
<p>4.5.a The San Luis Obispo APCD has indicated that the District's 1991 and updated 1995 Clean Air Plan (CAP) for the air basin assumed that the NO<sub>x</sub> concentration limits in its Rule 429 would be met. However, new owners may not be bound by the emissions limits or concentration limits required in the future. If Rule 429 does not apply to the new owner of the Morro Bay Power Plant, potentially significant increases in NO<sub>x</sub> emissions could occur as a result of the project. The possible increase in plant operation that could occur from divestiture, above what is expected from restructuring, would further jeopardize the future attainment of the ozone standards (via NO<sub>x</sub> increases) and would be a potentially significant impact resulting from divestiture.</p>	<p>4.5.a.1 If the SLOAPCD has not adopted the planned revisions to Rule 429 prior to sale of the Morro Bay Power Plant, then:</p> <p>To assure that the NO<sub>x</sub> emission concentration limits and daily emission caps will apply to a new owner of the Morro Bay Power Plant, regardless of the status of Rule 429 modifications, PG&amp;E will request that the Air District complete modifications to the plant's permits to incorporate emission limits into the permits to operate in substantially the form and stringency described in Draft Rule 429.</p> <p>PG&amp;E agrees that the transfer of title for Morro Bay Power Plant will not occur until either Rule 429 or the plant's permit to operate has been so modified.</p>	<p>PG&amp;E provides the CPUC mitigation monitor with a copy of either the revised Rule 429 or the modified permit to operate the Morro Bay Power Plant.</p>	<p>Documentation of delivery to the CPUC of revised Rule 429 or the modified permit to operate.</p>	<p>At least 3 business days prior to the transfer of title.</p>

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Monitoring/ Reporting Action</b>	<b>Effectiveness Criteria</b>	<b>Timing</b>
<p>4.5.a The Monterey Bay Unified APCD has indicated that if the Moss Landing Power Plant is limited by Rule 431 for NO<sub>x</sub> emissions on a mass basis, its attainment strategy for NO<sub>x</sub> will be met. However, if Rule 431 does not apply to the new owner of the Moss Landing Power Plant, potentially significant increases in NO<sub>x</sub> emissions could occur as a result of the project. New owners may not be bound by the emissions limits or concentration limits required in the future.</p>	<p>4.5.a.2 If the MBUAPCD has not completed the actions necessary to apply the provisions of Rule 431 to a non-utility owner of the Moss Landing Power Plant prior to the transfer of title for the plant:</p> <p>To assure that the NO<sub>x</sub> emission concentration limits and daily emission caps will apply to a new owner of the Moss Landing Power Plant regardless of the status of Rule 431 modifications, PG&amp;E will request that the Air District complete modifications to the plant's permits to incorporate emission limits to the permits to operate in substantially the form and stringency described in Rule 431.</p> <p>PG&amp;E agrees that the transfer of title for Moss Landing Power Plant will not occur until either Rule 431 or the plant is permit to operate has been so modified.</p>	<p>PG&amp;E provides the CPUC mitigation monitor with a copy of either the revised Rule 431 or the modified permit to operate.</p>	<p>Documentation of delivery to the CPUC of revised Rule 431 or the modified permit to operate.</p>	<p>At least 3 business days prior to the transfer of title.</p>

**BIOLOGICAL RESOURCES**

<p>4.7.a PG&amp;E currently has access to in-house biological and regulatory experts familiar with individual sites and the unique context of environmental protection at power stations. Important species and habitat at the plants could be threatened in the future if new owners were unaware of the presence and sensitivity of such biological resources. This could be a significant impact.</p>	<p>4.7.a.1 PG&amp;E shall provide each new owner, for the respective plant, with PG&amp;E jurisdictional wetlands and special status species and habitats informational materials and training documents regarding resources associated with Morro Creek (Morro Bay) and the Moro Cojo and Elkhorn Sloughs (Moss Landing), to assist new owners in knowing the location of jurisdictional wetlands, special status species and habitats, and in meeting their legal obligations regarding endangered, threatened, or rare species or their habitats.</p>	<p>PG&amp;E will provide the CPUC mitigation monitor with disclosure form signed by the new owner listing documents received to accomplish this condition.</p>	<p>Documentation of delivery to the CPUC of the disclosure form for each plant to be divested.</p>	<p>At least 3 business days prior to transfer of title of the plant(s).</p>
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Impact	Mitigation Measure	Monitoring/ Reporting Action	Effectiveness Criteria	Timing
<b>HAZARDS</b>				
<p>4.9.a Under divestiture, any new owner would be required to comply with all worker and public safety laws and regulations. Because of these laws and circumstances, this potential impact of the project would be less than significant. Nonetheless, the above mitigation measure will assist new owners in complying with pertinent laws and regulations.</p>	<p>4.9.a.1 For the plants subject to this proceeding, PG&amp;E shall provide the new owner, for each respective plant, with all of PG&amp;E's material, non-privileged informational materials and training documents (not including records relating to PG&amp;E personnel) regarding worker health and safety, emergency plans and hazardous materials handling and storage. Although the new owners will be responsible for ensuring that their operations are in compliance with applicable laws, this informational material may assist new owners in understanding worker health and safety issues and procedures and in meeting all safety and legal obligations regarding hazardous materials handling, emergency plans and storage.</p>	<p>PG&amp;E will provide the CPUC mitigation monitor with a disclosure form signed by the new owner listing documents to accomplish this condition.</p>	<p>Documentation of delivery to the CPUC of the disclosure form for each plant to be divested.</p>	<p>At least 3 business days prior to transfer of title of the plant(s).</p>
<b>CULTURAL RESOURCES</b>				
<p>4.14.b Remediation and/or minor construction activities, if they occur, could potentially uncover previously unknown archaeological resources at either Morro Bay or Moss Landing given past finds at both of the sites. Therefore, the impact of the project could be potentially significant.</p>	<p>4.14.b.1 PG&amp;E shall prepare and certify its intent to comply with a program to address potential impacts to archaeological resources from PG&amp;E actions related to the divestiture at the Morro Bay and Moss Landing power plants, such as construction to separate the properties or soil remediation activities. The program shall include provisions in PG&amp;E construction documents and protocols for coordination with appropriate resource agencies. The program shall at a minimum include the following provisions:</p>	<p>CPUC mitigation monitoring approval of PG&amp;E's proposed archaeological mitigation program and any subsequent implementation reports.</p>	<p>Submittal of archaeological mitigation program and subsequent implementation reports to CPUC for each plant.</p>	<p>Approval by CPUC mitigation monitor of archaeological mitigation program at least 10 business days prior to transfer of ownership of the Morro Bay and Moss Landing plants; review implementation reports upon submittal.</p>

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Monitoring/ Reporting Action</b>	<b>Effectiveness Criteria</b>	<b>Timing</b>
Cultural Resources (cont.)	<p>A qualified archaeologist shall be consulted prior to implementing construction or soil remediation activities that will involve earthmoving or soil excavation, and the archaeologist shall be available for consultation or evaluation of any cultural resources uncovered by such activities. For any previously undisturbed, known archaeological areas, a qualified archaeologist shall monitor earthmoving and soil excavation activities, consistent with relevant Federal, State, and local guidelines. If an unrecorded resource is discovered, construction or excavation activities shall be temporarily halted or directed to other areas pending the archaeologist's evaluation of its significance. If the resource is significant, data collection, excavation, or other standard archaeological or historical procedures shall be implemented to mitigate impacts pursuant to the archaeologist's direction. If any human remains are encountered, the archaeologist shall contact the appropriate County Coroner immediately and security measures shall be implemented to ensure that burials are not vandalized until the decision of burial deposition has been made pursuant to California law. If human remains are determined to be Native American interments, the Coroner shall contact the Native American Heritage CPUC pursuant to Public Resources Code Section 5097.98 and follow the</p>			

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Monitoring/ Reporting Action</b>	<b>Effectiveness Criteria</b>	<b>Timing</b>
Cultural Resources (cont.)	procedures stated herein and other applicable laws. A report by the archaeologist evaluating the find and identifying mitigation actions taken shall be submitted to the CPUC. Where appropriate to protect the location and sensitivity of the cultural resources, the report may be submitted under Public Utilities Code Section 583 or other appropriate confidentiality provisions.			
4.14.b (same as above)	4.14.b.2 PG&E shall provide the new owner of the Morro Bay and Moss Landing plants with PG&E's archaeological resource information materials and any training documents concerning the new owner's respective plants. This will assist the new owner in knowing the locations of such resources, and in meeting their legal obligations regarding preservation of those resources.	PG&E will provide the CPUC mitigation monitor with a disclosure form, for each plant specified, signed by the new owner listing documents received to accomplish this action.	Documentation of delivery to the CPUC of the disclosure form for each plant to be divested.	At least 3 business days prior to the transfer of title for each plant.